

Senate File 481 - Reprinted

SENATE FILE 481
BY COMMITTEE ON LOCAL
GOVERNMENT

(SUCCESSOR TO SSB 1172)

(As Amended and Passed by the Senate April 12, 2017)

A BILL FOR

1 An Act relating to the enforcement of immigration laws and
2 providing penalties and remedies, including the denial of
3 state funds to certain entities.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **825.1 Definitions.**

2 1. "*Immigration detainer request*" means a federal government
3 request to a local entity to maintain temporary custody of
4 an alien. "*Immigration detainer request*" includes verbal and
5 written requests, including a United States department of
6 homeland security form I-247 or a similar or successor form.

7 2. "*Immigration law*" means a law of this state or a federal
8 law relating to aliens, immigrants, or immigration, including
9 but not limited to the federal Immigration and Nationality Act,
10 8 U.S.C. §1101 et seq.

11 3. "*Lawful detention*" means the detention of a person by a
12 local entity for the investigation of a public offense. "*Lawful*
13 *detention*" excludes a detention if the sole reason for the
14 detention is that a person is a victim of or witness to a public
15 offense or is reporting a public offense.

16 4. "*Local entity*" means the governing body of a city or
17 county. "*Local entity*" includes an officer or employee of a
18 local entity or a division, department, or other body that is
19 part of a local entity, including but not limited to a sheriff,
20 police department, city attorney, or county attorney.

21 5. "*Policy*" includes a formal, written rule, policy,
22 procedure, regulation, order, ordinance, motion, resolution, or
23 amendment and an informal, unwritten policy.

24 6. "*Public offense*" excludes a moving traffic violation
25 under chapter 321.

26 Sec. 2. NEW SECTION. **825.2 Law enforcement agency duties —**
27 **immigration detainer requests.**

28 A law enforcement agency in this state that has custody of
29 a person subject to an immigration detainer request issued by
30 United States immigration and customs enforcement shall fully
31 comply with any instruction made in the detainer request and in
32 any other legal document provided by a federal agency.

33 Sec. 3. NEW SECTION. **825.3 Completion of sentence in**
34 **federal custody.**

35 1. The court, in a criminal proceeding in this state in

1 which the sentence requires a defendant who is the subject
2 of an immigration detainer request to be confined in a
3 correctional facility, shall issue an order at the time of
4 sentencing requiring the correctional facility in which the
5 defendant is to be confined and all appropriate government
6 officers to require the defendant to be transferred to serve in
7 federal custody the final portion of the defendant's sentence,
8 not to exceed a period of seven days, if a facility or officer
9 determines that the change in the place of confinement will
10 facilitate the seamless transfer of the defendant into federal
11 custody. The court in a criminal proceeding in this state
12 shall retain jurisdiction to issue such an order at a later
13 date if the court receives notice from a federal agency that a
14 defendant was the subject of an immigration detainer request at
15 the time of sentencing. The court shall issue such an order as
16 soon as practicable after receiving such notice.

17 2. In the absence of an order issued under this section,
18 a facility or officer acting under exigent circumstances may
19 perform such a transfer after making a determination that the
20 change in the place of confinement will facilitate the seamless
21 transfer of the defendant into federal custody.

22 3. A defendant shall be transferred pursuant to this section
23 only if appropriate officers of the federal government consent
24 to the transfer of a defendant into federal custody under the
25 circumstances described in this section.

26 Sec. 4. NEW SECTION. 825.4 Restriction on enforcement of
27 immigration law prohibited.

28 1. A local entity shall not adopt or enforce a policy or
29 take any other action under which the local entity prohibits or
30 discourages the enforcement of immigration laws.

31 2. A local entity shall not prohibit or discourage a person
32 who is a law enforcement officer, corrections officer, county
33 attorney, city attorney, or other official who is employed by
34 or otherwise under the direction or control of the local entity
35 from doing any of the following:

1 *a.* Inquiring about the immigration status of a person under
2 a lawful detention or under arrest.

3 *b.* Doing any of the following with respect to information
4 relating to the immigration status, lawful or unlawful, of any
5 person under a lawful detention or under arrest, including
6 information regarding the person's place of birth:

7 (1) Sending the information to or requesting or receiving
8 the information from United States citizenship and immigration
9 services, United States immigration and customs enforcement, or
10 another relevant federal agency.

11 (2) Maintaining the information.

12 (3) Exchanging the information with another local entity or
13 a federal or state governmental entity.

14 *c.* Assisting or cooperating with a federal immigration
15 officer as reasonable or necessary, including providing
16 enforcement assistance.

17 *d.* Permitting a federal immigration officer to enter and
18 conduct enforcement activities at a jail or other detention
19 facility to enforce a federal immigration law.

20 Sec. 5. NEW SECTION. **825.5 Written policies.**

21 No later than January 1, 2018, each state or local law
22 enforcement agency subject to this chapter shall do all of the
23 following:

24 1. Formalize in writing any unwritten, informal policies
25 relating to the enforcement of immigration laws.

26 2. Update the agency's policies to be consistent with this
27 chapter, to require each officer or other employee of the law
28 enforcement agency to fully comply with this chapter, and to
29 prohibit an officer or other employee of the law enforcement
30 agency from preventing law enforcement agency personnel from
31 fully complying with this chapter.

32 Sec. 6. NEW SECTION. **825.6 Discrimination prohibited.**

33 A local entity or a person employed by or otherwise under
34 the direction or control of a local entity shall not consider
35 race, skin color, language spoken, or national origin while

1 enforcing immigration laws except to the extent permitted by
2 the Constitution of the United States or the Constitution of
3 the State of Iowa.

4 Sec. 7. NEW SECTION. **825.7 Victim of or witness to a crime**
5 **— limitation on collection of information.**

6 A local entity or a person employed by or otherwise under
7 the direction or control of a local entity shall not ask for
8 or collect any information from a victim of or witness to an
9 alleged public offense or from a person reporting an alleged
10 public offense, including the victim's, witness's, or person's
11 national origin, that is not pertinent to the investigation of
12 the alleged public offense.

13 Sec. 8. NEW SECTION. **825.8 Complaints — notification —**
14 **civil action.**

15 1. Any person, including a federal agency, may file a
16 complaint with the attorney general or a county attorney
17 alleging that a local entity has violated or is violating
18 this chapter if the person offers evidence to support such an
19 allegation. The person shall include with the complaint any
20 evidence the person has in support of the complaint.

21 2. A local entity for which the attorney general or county
22 attorney has received a complaint pursuant to this section
23 shall comply with any document requests, including a request
24 for supporting documents, from the attorney general or county
25 attorney relating to the complaint.

26 3. A complaint filed pursuant to subsection 1 shall not
27 be valid unless the attorney general or county attorney
28 determines that a violation of this chapter by a local entity
29 was intentional.

30 4. If the attorney general or county attorney determines
31 that a complaint filed pursuant to this section against a local
32 entity is valid, the attorney general or county attorney, not
33 later than ten days after the date of such a determination,
34 shall provide written notification to the local entity by
35 certified mail, with return receipt requested, stating all of

1 the following:

2 *a.* A complaint pursuant to this section has been filed and
3 the grounds for the complaint.

4 *b.* The attorney general or county attorney has determined
5 that the complaint is valid.

6 *c.* The attorney general or county attorney is authorized to
7 file a civil action in district court pursuant to subsection
8 6 to enjoin a violation of this chapter no later than forty
9 days after the date on which the notification is received
10 if the local entity does not come into compliance with the
11 requirements of this chapter.

12 *d.* The local entity and any entity that is under the
13 jurisdiction of the local entity will be denied state funds
14 pursuant to section 825.9 for the state fiscal year following
15 the year in which a final judicial determination in a civil
16 action brought under this section is made.

17 5. No later than thirty days after the date on which a
18 local entity receives written notification under subsection 4,
19 the local entity shall provide the attorney general or county
20 attorney with all of the following:

21 *a.* Copies of all of the local entity's written policies
22 relating to immigration enforcement actions.

23 *b.* A copy of each immigration detainer request received by
24 the local entity from a federal agency.

25 *c.* A copy of each response sent by the local entity to an
26 immigration detainer request described by paragraph "b".

27 *d.* A description of all actions the local entity has taken
28 or will take to correct any violations of this chapter.

29 *e.* If applicable, any evidence that would refute the
30 allegations made in the complaint.

31 6. No later than forty days after the date on which the
32 notification pursuant to subsection 4 is received, the attorney
33 general or county attorney shall file a civil action in
34 district court to enjoin any ongoing violation of this chapter
35 by a local entity.

1 **Sec. 9. NEW SECTION. 825.9 Denial of state funds.**

2 1. Notwithstanding any other provision of law to the
3 contrary, a local entity, including any entity under the
4 jurisdiction of the local entity, shall be ineligible to
5 receive any state funds if the local entity intentionally
6 violates this chapter.

7 2. State funds shall be denied to a local entity pursuant
8 to subsection 1 by all state agencies for each state fiscal
9 year that begins after the date on which a final judicial
10 determination that the local entity has intentionally violated
11 this chapter is made in a civil action brought pursuant to
12 section 825.8, subsection 6. State funds shall continue
13 to be denied until eligibility to receive state funds is
14 reinstated under section 825.10. However, any state funds for
15 the provision of wearable body protective gear used for law
16 enforcement purposes shall not be denied under this section.

17 3. The department of management shall adopt rules pursuant
18 to chapter 17A to implement this section and section 825.10
19 uniformly across state agencies from which state funds are
20 distributed to local entities.

21 **Sec. 10. NEW SECTION. 825.10 Reinstatement of eligibility**
22 **to receive state funds.**

23 1. Except as provided by subsection 5, no earlier than
24 twelve months after the date of a final judicial determination
25 that a local entity has intentionally violated the provisions
26 of this chapter, the local entity may petition the district
27 court that heard the civil action brought pursuant to section
28 825.8, subsection 6, to seek a declaratory judgment that the
29 local entity is in full compliance with this chapter.

30 2. A local entity that petitions the court as described by
31 subsection 1 shall comply with any document requests, including
32 a request for supporting documents, from the attorney general
33 or county attorney relating to the action.

34 3. If the court issues a declaratory judgment declaring that
35 the local entity is in full compliance with this chapter, the

1 local entity's eligibility to receive state funds is reinstated
2 beginning on the first day of the month following the date on
3 which the declaratory judgment is issued.

4 4. A local entity shall not petition the court as described
5 in subsection 1 more than twice in one twelve-month period.

6 5. A local entity may petition the court as described in
7 subsection 1 before the date provided in subsection 1 if the
8 person who was the director or other chief officer of the
9 local entity at the time of the violation of this chapter is
10 subsequently removed from or otherwise leaves office.

11 6. A party shall not be entitled to recover any attorney
12 fees in a civil action described by subsection 1.

13 Sec. 11. NEW SECTION. **825.11 Attorney general database.**

14 The attorney general shall develop and maintain a searchable
15 database listing each local entity for which a final judicial
16 determination described in section 825.9, subsection 2, has
17 been made. The attorney general shall post the database on the
18 attorney general's internet site.

19 Sec. 12. **APPLICABILITY.** This Act applies to the release of
20 a person from custody in this state on or after the effective
21 date of this Act.

22 Sec. 13. **IMPLEMENTATION OF ACT.** Section 25B.2, subsection
23 3, shall not apply to this Act.